

Public Law 246

CHAPTER 400

AN ACT

August 8, 1953
[H. R. 6049]

To amend Public Law 815, Eighty-first Congress, to provide a temporary program of assistance in the construction of minimum school facilities in areas affected by Federal activities, and for other purposes.

64 Stat. 967,
20 USC 251-255,
271-280.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by adding at the end thereof the following new titles:

**"TITLE III—SCHOOL CONSTRUCTION ASSISTANCE IN
AREAS WITH SUBSTANTIAL INCREASES IN FEDER-
ALLY-CONNECTED SCHOOL CHILDREN**

"PURPOSE AND APPROPRIATION

"SEC. 301. The purpose of this title is to provide assistance for the construction of urgently needed minimum school facilities in school districts which, since the school year 1951-1952, have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1954, and the succeeding fiscal year such sums as the Congress may determine to be necessary for such purpose.

"PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS

"SEC. 302. For each fiscal year the Commissioner shall determine the portion of the funds appropriated pursuant to section 301 which shall be available for carrying out the provisions of sections 309 and 310. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 306.

"ESTABLISHMENT OF PRIORITIES

"SEC. 303. The Commissioner shall from time to time set dates, the last of which shall be not later than June 30, 1954, by which applications for payments under this title with respect to construction projects must be filed. If the funds appropriated under this title and remaining available on any such date for payments to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this title have not already been obligated), the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, for approval of such applications. Only applications meeting the conditions for approval under this title (other than section 306 (b) (3)) shall be considered applications for purposes of the preceding sentence.

"FEDERAL SHARE FOR ANY PROJECT

"SEC. 304. Subject to section 305 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this title shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will

be in the membership of the schools of such agency at the close of the regular school year 1953–1954 and who will otherwise be without such facilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which (A) are built or under contract as of the date set by the Commissioner under section 303 for filing applications for payments from the funds out of which such Federal share is to be paid, or (B) as of the date the application for such project is approved, are included in a project for which funds have been set aside under title II or in a project the application for which has been approved under this title.

“LIMITATION ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

“SEC. 305. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this title may not exceed the sum of the following:

“(1) The estimated increase, since the regular school year 1951–1952, in the number of children residing on Federal property with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

“(2) The estimated increase, since the regular school year 1951–1952, in the number of children residing on Federal property, or residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

“(3) The estimated increase, since the regular school year 1951–1952, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; but this paragraph (3) shall not apply unless the school district of such agency is partly or wholly situated within an area with respect to which, for the purposes of this Act, the President finds: (A) that a new defense plant or installation has been or is to be provided therein, or an existing defense plant or installation therein has been or is to be reactivated or its operation substantially expanded, and (B) that substantial in-migration of defense workers or military personnel is required to carry out activities at such plant or installation, and (C) after consultation with the Commissioner, that the minimum school facilities required for the free public education of the children of such defense workers or military personnel are not available. For purposes of this paragraph, the Commissioner shall not consider as activities of the United States those activities which are carried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 210, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results directly from activities of the United States children residing on Federal property or residing with a parent employed on Federal property.

Nonapplicability.

20 USC 280.

**Comparison of
estimated member-
ships.**

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the regular school year 1953-1954 shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the regular school year 1951-1952.

Election.

“(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child.

Noneligibility.

“(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d), is at least 20 and is equal to at least 5 per centum in the case of paragraph (1) or (2), and 10 per centum in the case of paragraph (3), of the number of all children who were in the average daily membership of the schools of such agency during the regular school year 1951-1952, and unless, in the case of paragraph (3), the construction of additional minimum school facilities for the number of children in such increase will, in the judgment of the Commissioner of Education, impose an undue financial burden on the taxing and borrowing authority of such agency.

**Reduction of
count.**

“(d) If (1) the estimated number of non-Federally-connected children who will be in the membership of the schools of a local educational agency at the close of the regular school year 1953-1954 is less than (2) 110 per centum of the number of such children who were in the average daily membership of such agency during the regular school year 1951-1952, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as non-Federally-connected children except children whose membership in the school years 1951-1952 and 1953-1954 was compared in computing an increase which meets the requirements of subsection (c).

Waivers.

“(e) Notwithstanding the provisions of subsections (c) and (d) of this section, whenever and to the extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this title, the Commissioner may do any one or more of the following: (1) He may waive or reduce any percentage requirement or requirements in subsection (c); (2) he may waive the requirement contained in the first sentence of subsection (d) or reduce the percentage specified in clause (2) of such sentence.

“APPLICATIONS

“SEC. 306. (a) No payment may be made to any local educational agency under this title except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him.

**Approval.
20 USC 275.**

“(b) The Commissioner shall approve any application if he finds (1) that the requirements of section 205 (b) (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 304 and 305, (2) after consultation with the State and local educational agencies, that the project is not inconsistent with over-all State plans for the construction of school facilities, and (3) that there are sufficient Federal funds available to pay

the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 303, have a higher priority.

“(c) No application under this title shall be disapproved in whole or in part until the Commissioner of Education has afforded the local educational agency reasonable notice and opportunity for hearing.

“PAYMENTS

“SEC. 307. (a) Upon approving the application of any local educational agency under section 306, the Commissioner of Education shall pay to such agency an amount equal to 10 per centum of the Federal share of the cost of the project. After final drawings and specifications have been approved by the Commissioner of Education and the construction contract has been entered into, the Commissioner shall, in accordance with regulations prescribed by him and at such times and in such installments as may be reasonable, pay to such agency the remainder of the Federal share of the cost of the project. Payments under this title shall be made through the disbursing facilities of the Department of the Treasury and prior to audit or settlement by the General Accounting Office.

“(b) Any funds paid to a local educational agency under this title and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

“ADDITIONAL PAYMENTS

“SEC. 308. Sums appropriated pursuant to this title, other than sums appropriated for administration, shall remain available until expended. Not to exceed 10 per centum of the amount so appropriated for any fiscal year (exclusive of any sums appropriated for administration) may be used by the Commissioner, under regulations prescribed by him, to make grants to local educational agencies where (1) the application of such agencies would be approved under this title but for the agencies' inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications, or (2) although the applications of such agencies have been approved, the projects covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work on the projects or the agencies' ability to finance the non-Federal share of the cost of the projects. Such grants shall be in addition to the payments otherwise provided under this title, shall be made to those local educational agencies whose need for additional aid is the most urgent and acute, and in so far as practicable shall be made in the same manner and upon the same terms and conditions as such other payments.

“WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

“SEC. 309. Notwithstanding the preceding provisions of this title, whenever the Commissioner determines that the membership of some or all of the children, who may be included in computing under section 305 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, the Commissioner may make available to such agency such temporary school facilities as may be necessary to take care of such membership; or he may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry

out the purposes of this title) to such agency for use in constructing school facilities an amount equal to the amount which he estimates would be necessary to make available such temporary facilities. In no case, however, may the amount so paid exceed the cost, in the school district of such agency, of constructing minimum school facilities for such children.

“CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE
EDUCATION

“SEC. 310. In the case of children who, it is estimated, will reside on Federal property on June 30, 1954—

“(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

“(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing or otherwise providing the minimum school facilities necessary for the education of such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending Federally-operated Indian schools. Whenever it will be necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 305 the maximum on the total of the payments for any local educational agency.

Nonapplicability.

“WITHHOLDING OF PAYMENTS

“SEC. 311. Whenever the Commissioner of Education, after reasonable notice and opportunity for hearing to a local educational agency, finds (1) that there is a substantial failure to comply with the drawings and specifications for the project, (2) that any funds paid to a local educational agency under this title have been diverted from the purposes for which paid, or (3) that any assurance given in an application is not being or cannot be carried out, the Commissioner may forthwith notify such agency that no further payment will be made under this title with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

“TITLE IV—SCHOOL CONSTRUCTION ASSISTANCE IN
OTHER FEDERALLY-AFFECTED AREAS

“SEC. 401. (a) If the Commissioner determines with respect to any local educational agency that—

“(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Federal property, and whose membership in the schools of such agency has not formed and will not form the basis for payments under title II or

III of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education;

"(2) the immunity of such Federal property to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

"(3) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance available for the purpose; and

"(4) such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education in its school district,

he may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates is attributable to children who reside on Federal property, and which has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law.

"(b) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1954, and the succeeding fiscal year such sums, not to exceed \$20,000,000 in the aggregate, as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended, except that after June 30, 1955, no agreement may be made to extend assistance under this section.

"(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 205 (b) (1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility. No payment may be made under subsection (a) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with over-all State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

"(d) Amounts paid by the Commissioner to local educational agencies under subsection (a) may be paid in advance of, or by way of reimbursement for, work performed or purchases made pursuant to the agreement with the Commissioner under this title, and may be paid in such installments as the Commissioner may determine. All such payments shall be made through the disbursing facilities of the Department of the Treasury and prior to audit or settlement by the General Accounting Office. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States."

Appropriations.

20 USC 275.

Payments.

20 USC 275.

SEC. 2. (a) Section 205 (b) (1) (F) of such Act is amended by striking out "title" and inserting "Act" in lieu thereof.

20 USC 277.

(b) Section 207 (b) of such Act is amended by inserting "or title III" after "this title" and inserting "or under section 311" after "this section".

20 USC 279.

(c) Section 209 (a) of such Act is amended by striking out "title" and inserting "Act" in lieu thereof.

(d) Section 209 (b) of such Act is amended by striking out "title" and inserting "Act" in lieu thereof.

(e) Section 209 (c) of such Act is amended by inserting after the first sentence the following new sentence: "There are hereby authorized to be appropriated for the fiscal year ending June 30, 1954, such sums as may be necessary to carry out the provisions of this title other than sections 203 and 204; but such sums (exclusive of any sums appropriated for administration) shall not exceed \$55,000,000 in the aggregate. Sums appropriated pursuant to the preceding sentence shall be available for paying unpaid entitlements, but no local educational agency shall be paid from such sums an amount which exceeds 70 per centum of its unpaid entitlement. For the purposes of the preceding sentence, the term 'unpaid entitlement' means the amount which the Commissioner would be authorized to pay to a local educational agency from funds appropriated before July 1, 1953, to carry out this title, if such funds were sufficient to make such payment, but which cannot be paid from such funds; except that such amount shall not include any amount to reimburse such agency for any expenditure for construction of school facilities under a contract entered into before September 30, 1950."

(f) Section 209 (e) of such Act is amended by striking out "title" each time it appears in such section and inserting "Act" in lieu thereof, by striking out "June 30, 1953" and inserting "June 30, 1955" in lieu thereof, and by inserting "authorized, prior to the date of enactment of this Act, for the construction of school facilities to be attended by Indian children or appropriations" immediately before clause (1) thereof.

20 USC 280.

(g) The second sentence of section 210 (1) of such Act is amended to read as follows: "Such term includes real property which is owned by the United States and leased therefrom and the improvements thereon, even though the lessee's interest, or any improvement on such property, is subject to taxation by a State or a political subdivision of a State or by the District of Columbia." The last sentence of such section 210 (1) is amended by striking out "Such" and inserting in lieu thereof "Notwithstanding the foregoing provisions of this paragraph, such".

(h) Section 210 (5) of such Act is amended to read as follows:

Determination of
school membership,
etc.

"(5) Average daily attendance at, and the membership and average daily membership of, school shall be determined in accordance with State law or, in the absence of State law governing such a determination, in accordance with regulations of the Commissioner; except that, notwithstanding any other provision of this title, title III, or title IV, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this title the attendance of such child, and for purposes of titles III and IV the membership of such child, shall be held and considered—

"(A) if the two local educational agencies concerned so agree, and if such agreement is approved by the Commissioner, as attendance at (or membership of) a school of the local educational agency receiving such tuition payment;

“(B) in the absence of any such approved agreement, as attendance at (or membership of) a school of the local educational agency so making or contracting to make such tuition payment.

In any determination of average daily attendance at or membership of schools, children who are not provided free public education (as defined in paragraph (4)) shall not be counted.”

(i) Section 210 (7) of such Act is amended by inserting “or minimum” after “complete” in the first sentence thereof and by adding at the end thereof the following new sentence: “The cost of constructing minimum school facilities in the school district of a local educational agency shall be determined by the Commissioner, after consultation with the State and local educational agencies, on the basis of such information as may be contained in the application of such local educational agency and such other information as he may obtain.”

Construction costs.

(j) The last sentence of section 210 (10) of such Act is amended to read: “Except as used in sections 203, 204, 309, and 310, such term does not include interests in land and off-site improvements.”

(k) Section 210 (11) of such Act is amended by inserting at the end thereof the following new sentence: “Whether or not school facilities are minimum school facilities shall be determined by the Commissioner, after consultation with the State and local educational agencies, in accordance with regulations prescribed by him.”

Minimum facilities.

(l) The second sentence of section 210 (12) of such Act is amended by inserting before the period at the end thereof “or which has responsibility for the provision of such facilities”.

(m) Section 105 (a) of such Act is amended by striking out “title” and inserting “Act” in lieu thereof.

20 USC 255.

SEC. 3. The amendments made by the preceding sections of this Act shall become effective July 1, 1953.

Effective date.

Approved August 8, 1953.

Public Law 247

CHAPTER 401

AN ACT

To authorize the Coast Guard to accept, operate, and maintain a certain defense housing facility at Cape May, New Jersey.

August 8, 1953
[H. R. 6354]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Coast Guard is authorized to accept from the Department of the Navy, without reimbursement, the fifty-unit defense housing facility at Cape May, New Jersey, and to operate and maintain such facility on a rental basis for occupancy by Coast Guard personnel and their dependents pursuant to the provisions of the Act of July 2, 1945 (59 Stat. 316; 37 U. S. C. 111a).

Coast Guard,
Housing facility,
Cape May, N. J.

SEC. 2. The gross amounts of all rents collected shall be deposited in the Treasury to the credit of miscellaneous receipts. The appropriation “Operating expenses, Coast Guard” shall be available for the cost of operation and maintenance of said housing facility.

SEC. 3. The administration of this housing facility by the Coast Guard shall be in conformity with the administration of similar housing projects by the other Armed Forces.

Approved August 8, 1953.